

REMARKS

An Office Action was issued by the examiner at the United States Patent and Trademark Office with regard to the matter captioned above. That Office Action is presently outstanding.

Claims 23-26 and 28 were pending before the examiner at the time the action was taken. Those five claims are subject to rejection.

All of the claims (that is, Claims 28 and 23-26) were rejected under 35 U.S.C. § 102(b). It was the examiner's position that those claims were fully anticipated by the teachings of United States Patent No. 1,575,263 (Guglielmi).

Those five claims were, again, rejected under § 102(b) in view of another patent. The examiner took the position that those claims were fully anticipated by the teachings of United States Patent No. 5,172,440 (Ming).

The examiner made the action taken therein "FINAL". This PRELIMINARY AMENDMENT is, therefore, being filed ancillary to a Request for Continued Examination (RCE). The appropriate papers and fee for an RCE are enclosed herewith.

In response to the action taken in the last Office Action, Applicants hereby amend their application. Claim 28 is the only independent claim, and Claims 23-26 are dependent, either directly or indirectly, upon Claim 28. Claims 28 and 23 have been amended. Claim 28 has been amended substantively, and Claim 23 has been amended to have language corresponding to that used in independent Claim 28.

Claim 28 defines a step of providing a single flexible item which is configurable to be planar. It also provides a step of defining at a location on the item an unobtrusive character feature representative of only head characteristics, the feature having no significant context of a complete character effigy when the item is in a planar configuration. Finally, that claim defines a step of

manipulating the item between the planar configuration and a non-planar configuration, wherein, when the item is in the planar configuration, it serves a practical function, and, when it is in the non-planar configuration, it gives context to a complete character effigy by simulating the body of the character effigy with the character feature positioned appropriately with respect to the body formed by the item to simulate the character's head. It is submitted that Claim 28, as amended, clearly distinguishes over all of the prior art of record and, particularly, both the Guglielmi and Ming patents. Reconsideration by the examiner is respectfully requested.

Guglielmi discloses "a body formed of woven or knit material and adapted to be folded over onto itself to form panels or intersections." A representation of a doll is attached to one side of the body... (See col. 1 beginning at line 42.) The specification goes on to provide that "...the face is preferably built out or raised from the body by means of a backing or filling..." (See col. 1 beginning at line 48.) The specification also provides that "the hood is likewise preferably raised somewhat from the body..." (See col. 1 beginning at line 53 and continuing at line 1 of col. 2.) There are other references to backing or filling being used to accomplish what is known in the industry as a **trapanto** effect. As pointed out hereinbefore, the reference provides that the doll is attached to one side of the body. By effecting such attachment, it would appear that the Guglielmi reference teaches a single, integrated item. If that is so, however, that item clearly does not satisfy or suggest the method of Claim 28 since, in view of the trapanto effect, the item is not configurable to be planar. Again, there are a plethora of references in Guglielmi to "filling" which effects a three dimensionality.

It would seem that the examiner, alternatively, takes the

position that the "body" does, apart from the doll which is attached, satisfy the limitation of a single item which is flexible and is configurable to be planar. In response to an assertion of this nature, Applicants would point out that the invention, which includes an unobtrusive character feature representative of only head characteristics being defined at a location on the item, is defined as having those characteristics **on the item**. Further, the claim requires that there be only a single item, and such a position of the examiner with respect to Guglielmi would provide for multiple items (that is, the "body" and a separate "doll").

Neither method of application of the Guglielmi reference even takes into account that the character feature is characterized in Claim 28 as having no significant context of a complete character effigy when the item is in a planar configuration, and wherein, when the item is manipulated to a second non-planar configuration, context is given to complete a character effigy such that the item simulates the body of the character effigy with the character feature positioned appropriately with respect to the body formed by the item to simulate the character's head.

Nor does the Ming reference offer any additional meaningful teaching. It is important to the present invention that, when the item is in the planar configuration, the feature has no significant context of a complete character effigy. That is, when the item is in a planar configuration, there is no meaningful effigy created. It is only after the manipulation from the first, planar configuration to the second, non-planar configuration occurs that context is given to the effigy. In Ming, assuming for purposes of argument that it is able to be configured in a planar configuration, context has already been given such that a character exists. In fact, what Ming teaches is that, by manipulating the item, the full effigy is destroyed. That is, the body of the

character is folded or rolled up into another portion of the previously-existing character.

It is then submitted that Claim 28 is patentably distinct over either Guglielmi or Ming. Further, it is neither anticipated nor rendered obvious by any other prior art of record.

Claims 23-26, as previously discussed, are dependent, either directly or indirectly, upon Claim 28. As such, they incorporate therein all of the limitations of Claim 28 and are patentable on the same basis as is Claim 28.

In view of the arguments made herein and the amendments which those arguments support, it is sincerely believed that this case is now in condition for allowance. Allowance of the application and passing of the file for issuance of formal allowance documents are earnestly solicited.

Please charge any deficiencies or credit any over payment to Deposit Account 14-0620.

Respectfully submitted,

Mary M. Ponthan et al.

By their attorney

Date

March 12, 2004

Lawrence M. Nawrocki

Lawrence M. Nawrocki

Reg. No. 29,333

NAWROCKI, ROONEY & SIVERTSON, P.A.

Suite 401, Broadway Place East

3433 Broadway St. N.E.

Minneapolis, MN 55413

(612) 331-1464